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Letter dated 12 May 2004 from the Secretary-General addressed to the President of the Security Council

I have the honour to transmit to you the report of the Commission of Inquiry on the events connected with the march planned for 25 March 2004 in Abidjan led by the Office of the United Nations High Commissioner for Human Rights (see annex). The Commission of Inquiry visited Abidjan from 15 to 28 April 2004.

I should be grateful if you would make the present letter and its annex available to the members of the Security Council.

(*Signed*) Kofi A. **Annan**

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Annex

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

REPORT OF THE COMMISSION OF INQUIRY

ON THE EVENTS CONNECTED WITH THE MARCH PLANNED FOR 25 MARCH 2004 IN ABIDJAN

GENEVA, 29 APRIL 2004

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I. INTRODUCTION

A. Background to the appointment of the Commission of Inquiry

1. Appointment and composition of the Commission

1. On 2 April 2004, responding to requests from President Laurent Gbagbo and the Prime Minister of the Government of National Reconciliation of Côte d'Ivoire, Mr. Seydou Diarra, as well as from the monitoring committee established under the Linas-Marcoussis Agreement, the United Nations Secretary-General, Mr. Kofi Annan, asked the Office of the United Nations High Commissioner for Human Rights (OHCHR) to lead an investigation into alleged human rights violations committed in connection with the march planned for Abidjan on 25 March 2004.

2. Pursuant to the Secretary-General's request, the United Nations Acting High Commissioner for Human Rights, Mr. B. Ramcharan, decided on 8 April 2004 to establish an independent Commission of Inquiry, to be composed of Franca Sciuto of Italy, the Chairperson of the Rainforest Foundation and former Chairperson of the Executive Committee of Amnesty International, Vera Duarte, Coordinator of the National Committee of Human Rights and a former Judge of the Supreme Court of Cape Verde, and Eugène Nindorera, a former Minister for Human Rights of Burundi.

3. In addition to the three internationally recognized experts appointed by the Acting High Commissioner, the Commission was supported by one forensic expert, Ms. Anahi Ginarte, and four OHCHR staff members, Mr. Gianni Magazzeni, Mr. Gilbert Bawara, Ms. Moetsi Duchatellier and Ms. Aminata Monnet.

B. Mandate of the Commission

4. In his request to OHCHR, the Secretary-General defined the mandate of the Commission of Inquiry as being to investigate alleged human rights violations committed in connection with the march planned for Abidjan on 25 March 2004. In his announcement of 8 April regarding the composition of the Commission, the Acting High Commissioner specified that the mandate would consist of establishing the facts concerning the responsibility for alleged atrocities committed in connection with the planned march.

C. Programme of work of the Commission

5. The Commission visited Abidjan from 15 to 28 April. While there, it met and had discussions with several official interlocutors, including President Gbagbo, Prime Minister Diarra and a number of his ministers, the commanders of the national armed forces (national police, gendarmerie and National Armed Forces of Côte d'Ivoire (FANCI)), as well as leaders of all political parties. The Commission also met with the Special Representative of the Secretary-General, Mr. Albert Tevoedjré, and relevant segments of the United Nations Operation in Côte d'Ivoire (ONUCI), the French-led force Licorne and ambassadors and members of diplomatic missions from neighbouring and other countries. Furthermore, the Commission conducted interviews with interested local non-governmental organizations, religious leaders and women's groups. Concerned governmental structures, such as the

Abidjan main detention centre (Maison d'arrêt et de correction d'Abidjan, MACA) and police stations were also visited.

6. It should be noted that during the initial phase of the work of the Commission, the Under-Secretary-General for Peacekeeping Operations, Mr. Jean-Marie Guéhenno, was undertaking a high-level mission to Côte d'Ivoire, together with members of the Security Council.

7. The Commission wishes to express its thanks to President Gbagbo and the Government of National Reconciliation, to the diplomatic community and in particular those embassies that were visited, national and international organizations, and all individuals who managed to contact the Commission directly, either through a local phone number or through an email address (made known publicly upon its arrival in Abidjan), or met with the Commission, for their cooperation and assistance.

D. Methodology of the work of the Commission

8. The principal source of the Commission's findings presented in this report was extensive meetings and interviews with eyewitnesses, survivors of the events, other individuals and groups of people with first-hand information, testimonies, reports and accounts relating to the Commission's specific mandate. Persons were interviewed individually and/or with someone they trusted; they were also told that their testimonies would be kept confidential.

9. This methodology encouraged witnesses and produced credible accounts of their experiences. In response to follow-up questions, they were often able to provide additional details or observations about the precise manner in which the incidents they described had actually occurred. In some cases, they still bore the physical scars left by the events and the emotional toll of their recollections was evident. These meetings and interviews also allowed the Commission to collect other documentary evidence, including photographs, audio recordings and videos. It should be noted that a number of eyewitnesses might not have wanted to meet the Commission for fear of possible reprisals.

E. Other investigations

10. The events that took place in Abidjan in connection with the march planned for 25 March resulted in grave human rights violations. The Government of National Reconciliation, the Parliament, the political actors and civil society organizations unanimously requested an investigation to be carried out. The work of this Commission of Inquiry can only help in shedding light on those events.

11. Other investigations have been undertaken or envisaged by the Government or State institutions. These include an investigation by a parliamentary commission, an investigation by the Ministry of Human Rights and an investigation by the Ministry of Justice through a national commission that should soon be established. Many national human rights organizations and media have also investigated these events. The judicial inquiries directed by the Public Prosecutor, which are the most important element in establishing responsibility, have already ordered forensic examinations.

II. BACKGROUND TO THE ESTABLISHMENT OF THE COMMISSION

A. The fragile political context in Côte-d'Ivoire

12. The events connected with the march planned for 25 March 2004 occurred against the background of a particularly volatile political situation in Côte d'Ivoire characterized by a continuous power struggle among the political forces that comprise the Government of National Reconciliation, especially in view of the forthcoming presidential elections, scheduled to take place in October 2005. This power struggle manifests itself in various ways and aims at appealing to the various social forces within civil society and public opinion in order to gain additional popular support or influence. One example of this is the conflicting interpretations with respect to the degree of implementation of the Linas-Marcoussis and Accra II Agreements that prevailed at the time of the issuance of the present report.

13. This situation complicated efforts towards peace and reconciliation. Two years of conflict had sharpened political differences and deepened the already severe social and economic conditions of the large majority of the population. The conflict, which broke out in September 2002, and the stalemate in the peace process, as well as massive and widespread human rights abuses perpetrated by all parties to the conflict since then, have exacerbated rivalries and created new tensions among various communities living in Côte d'Ivoire.

14. Furthermore, recent conflicts in neighbouring countries, such as Liberia and Sierra Leone, have facilitated the proliferation of light weapons and the availability of former combatants in Côte d'Ivoire itself. Despite the stalemate in the peace process, the main political forces had effectively already started campaigning, thereby stepping up the struggle for power.

15. It is in that context of general mistrust and lack of confidence among the parties to the peace process that the Parti démocratique de Côte d'Ivoire (PDCI), on 4 March 2004, decided to suspend its participation in Cabinet meetings to protest the perceived dysfunctional system of government and the lack of the rule of law. The political impasse intensified even further when six other parties, namely Rassemblement des Républicains (RDR), Union pour la démocratie et pour la paix en Côte d'Ivoire (UDPCI), Mouvement des forces de l'avenir (MFA), Mouvement patriotique de Côte d'Ivoire (MPCI), Mouvement populaire ivoirien du grand ouest (MPIGO) and Mouvement pour la justice et la paix (MJP), decided to join PDCI and formed a new political coalition known as the Group of Seven (G7). The main objective of G7 was to ensure the full and effective implementation of the Linas-Marcoussis and Accra II Agreements.

B. Events prior to 25 March 2004

16. On 17 March G7 released a memorandum in which it formulated grievances against the President of the Republic and listing the obstacles and difficulties that should be addressed in order to move the peace process forward. The same day, G7 expressed its intention to organize, on 25 March 2004, a march meant to urge full and unhindered implementation of the Linas-Marcoussis Agreement. The planned public demonstration would demonstrate to national and international opinion that the portion of the population in favour of the Agreement was greater than that opposed to it. The demonstration was further intended to point out the obstacles

purportedly created by President Gbagbo and his supporters with a view to undermining the effective and proper functioning of the Government of National Reconciliation, and thus help overcome, once and for all, the stalemate in the peace process.

17. A day after the planned march was announced, Presidential Decree No. 2004-210, previously debated during a Cabinet meeting on 11 March 2004, was adopted and signed by the President and issued. It banned public demonstrations until 30 April 2004; however, the decree allowed political parties to hold meetings in closed spaces. According to the authorities, the Government had been prompted to prohibit public demonstrations, at least on a temporary basis, following the events of 9 March 2004, when a group of Young Patriots and alleged partisans of President Gbagbo's Front populaire ivoirien (FPI) assaulted magistrates on the premises of the Palais de Justice in Abidjan, and a similar incident on 10 March when a group of Young Patriots attempted to dislodge ministers and members of the Forces nouvelles staying at the Golf Hotel in Abidjan.

18. Numerous mediation efforts were undertaken by national, regional and international actors, including the Secretary-General, the Linas-Marcoussis monitoring committee, the Special Representative of the Secretary-General, the Foreign Minister of Nigeria and President John Kufuor of Ghana, also Chairperson of the Economic Community of West African States (ECOWAS), and even the traditional chiefs of Côte d'Ivoire, with a view to diffusing the tense situation created and appealing for restraint and dialogue between G7 and President Gbagbo.

19. In particular, it should be noted that the Secretary-General, on 25 March, appealed to the leaders of the Ivorian political parties to demonstrate statesmanship and engage in constructive consultations, as promised by President Gbagbo. Equally, the Special Representative of the Secretary-General, on 22 March, had urged the political parties to find a negotiated way out of the current political crisis. Furthermore, Mr. Tevoedjré stated that the international community supported the peace process in Côte d'Ivoire but would not tolerate political disorder that could lead directly to destruction and uncontrollable terror.

20. In view of the political tension which had intensified greatly since early March 2004, when PDCI walked out of government meetings, it was not responsible to insist on organizing a public demonstration, in particular since protest marches had been banned precisely to ease the tension and create an environment conducive to the imminent deployment of United Nations peacekeeping troops. It is also regrettable that the parties concerned refused to give the numerous mediation efforts that were deployed a chance to diffuse the tension and establish a dialogue. It remains unclear why it was not possible for all parties concerned immediately to engage in a dialogue to discuss the obstacles that could undermine the full and effective implementation of the peace accords.

21. All these mediation efforts failed, however, and official declarations and public statements by the authorities became even more defiant and threatening.

22. It should be pointed out that on 22 March, G7 handed over a "memorandum of grievances" containing their own interpretation as to the current obstacles to the implementation of the peace accords. While this could have been an opportunity to be seized immediately, it is interesting to note that President Gbagbo undertook to embark upon a

dialogue with the G7 coalition on Monday, 29 March, although the march was still scheduled to take place on 25 March.

23. Also on 22 March, President Gbagbo issued Decree No. 2004-236 mobilizing the national armed forces. The Commission was informed by reliable sources that Prime Minister Diarra was not consulted, or even told, about that decree until it was read out on public television.

24. Given that G7 maintained its determination to demonstrate, President Gbagbo on 24 March called for a meeting of the Prime Minister, the Ministers of Defence and Internal Security, as well as the main chiefs of the national police, the gendarmerie and FANCI, and instructed them to take steps to mount a security operation able to withstand any threat, as well as to prevent a march of any type from even developing.

25. The march planned for 25 March was widely publicized and perceived by some as a serious challenge to the President and the legitimate State institutions. During meetings with President Gbagbo and with the Defence and Internal Security Ministers, the Commission was told that the decision to mobilize the national armed forces was intended to put down the demonstration and prevent it from taking place.

26. As indicated earlier, public demonstrations had been banned in accordance with Presidential Decree No. 2004-210. That the impending march would represent an open challenge to the President and would be in defiance of his authority potentially had several political repercussions at a time when the parties had effectively started their election campaigns. Opposition parties could show that they were able to mobilize a large number of people. More than 1 million people lived in Abobo alone, an area of Abidjan that is a bastion of support for G7; a successful march could give visual recognition to this electoral force and could tilt the balance of power in favour of G7. The Commission of Inquiry also noted that the Young Patriots had demonstrated at the French military base in Abidjan (43rd BIMA) in December 2003, despite a presidential decree prohibiting public protest marches from October 2003 to January 2004.

27. The decision to forbid the 25 March demonstration and the harsh public statements made by the authorities prior to it were further justified by the fear that armed elements, presumably belonging to the Forces nouvelles, could actually attempt to infiltrate the march and use it to stage a coup d'état against the Head of State.

28. According to the highest authorities of the State, the demonstration would have represented a pretext to launch what was referred to as "the battle of Abidjan", with a view to overthrowing the regime. The recent experience of Haiti was evoked before the Commission to explain their fears of what could occur in the wake of the planned march. It was also argued that both governmental and foreign intelligence services had warned about possible risks in connection with the march and the real objective of the organizers. In addition, there was also information available to the effect that the rebel movement was being supplied with weapons and ammunition from two neighbouring countries with the objective of capturing Abidjan. In that context, the events of 25 March came to be seen as having been planned long before and as the ultimate threat to the regime.

29. Therefore, in view of the perceived threat posed by the demonstration to the regime and to public order, the highest authorities of the State indicated that even if there had not been a decree prohibiting public demonstrations, they would not have allowed or tolerated the planned march. Instructions had consequently been given to the Ministers of Defence and of Internal Security as well as the relevant chiefs of the security forces to take every measure deemed necessary to suppress the demonstration. In this regard, in addition to positioning the security forces throughout the city of Abidjan, government troops were also stationed some 120 km outside the capital to watch for and prevent any infiltration by rebel forces into Abidjan. Similar steps were taken to monitor the situation overseas through the use of the navy.

30. On 18 March, the Commanders of the Presidential Guard and of the Group of Presidential Security addressed a letter to the Minister of Internal Security and decreed that the areas around the presidential palace would be considered a "red zone" where anyone caught would be viewed as an enemy combatant and treated as such, i.e. shot, without warning.

31. The allegations regarding the presence of armed demonstrators and elements of rebel groups prepared to attack the security forces or to overthrow the President could not be independently verified, as the Commission received no credible or conclusive evidence to this end. All the same, the Commission could not prove reports suggesting that elements of armed groups such as the Front pour la libération du grand ouest (FLGO), which traditionally operates alongside governmental forces, might have been brought from the front lines back to Abidjan in order to support the security forces in suppressing the planned march.

32. Nonetheless, it should be noted that the Forces nouvelles had decided not to participate in the protest march in Abidjan, but to organize demonstrations in areas under its control.

33. Consistent with Presidential Decree No. 2004-236 mobilizing the national armed forces and the instructions received during the 24 March meeting between the President, the Prime Minister, the Ministers of Defence and Internal Security as well as the concerned chiefs of the national police, the gendarmerie and FANCI, the security forces were positioned in many areas on the periphery of the city, in particular in locations where protest gatherings and demonstrations were scheduled to take place. The entry and exit points of specific areas of Abidjan were blocked. These deployments took place in the very early hours of 25 March and in some cases well in advance, on 24 March.

34. According to various witness accounts and testimonies, despite the prohibition of public demonstrations and the heavy military and security presence, early on 25 March, there were gatherings, in particular in areas and suburbs of the city considered to be hostile to President Gbagbo's regime, notably Abobo, Anyama, Port Bouet 2 and Adjamé, whose inhabitants are mostly members of community groups from the north of the country or from the neighbouring countries of Burkina Faso, Mali and Niger and other ethnic groups perceived to be supporters of opposition parties. Credible reports indicate that demonstrations had effectively started taking place in some of these areas.

C. Events on and after 25 March 2004

35. As will be explained below in greater detail, what actually happened on 25 March and afterwards was the indiscriminate killing of innocent civilians by the security forces. There is

overwhelming evidence which suggests that these killings were mostly unprovoked and unnecessary to deal with the demonstrators. In addition, it is also evident that certain community groups were specially targeted, i.e. individuals from the north of the country or from neighbouring countries (especially Burkina Faso, Mali and Niger) who were subjected to major violations of human rights, including summary and extrajudicial execution, torture, arbitrary detention and disappearance, that had little or nothing to do with the march.

36. The political responsibility of those who had planned the march, in spite of the ban and the tense climate created by the drawing of a "red zone" and the mobilization and use of the army and statements made by the highest authority of the State, must also be clearly emphasized. The political leaders who had asked for the march to take place must have realized that it would be too risky, and they did not participate. Their political responsibility, however, cannot be in any way comparable to the actions of the security forces and the massive violations of human rights they committed.

37. The size of the military and security forces in place and the bellicose tone on the part of officials and the press, including a statement made on 24 March by the Chief of Staff of the Armed Forces, Gen. Mathias Doué, that the security forces would inflict the punishment deserved by those "who had understood nothing", all seemed to prepare the public for a major operation, one that in reality turned out to be a hard lesson for the demonstrators and the groups targeted by the security forces.

38. Indeed, while the march was presented to the public, and possibly perceived by some, as a major security challenge to the nation and its President, all available evidence suggests that there was no significant threat to the security forces posed by the demonstrators, who were not armed, and there was no reported infiltration from the north, or any attempts at an insurrection by the population against the State. Credible witnesses' accounts attest to the fact that those who were determined to venture onto the streets in order to demonstrate intended to challenge the ban on marches, since that had already happened with no consequences when the Young Patriots demonstrated in December 2003 during a previous ban, and to show a public display of political support for G7.

39. The repression and killings that took place in the morning of 25 March, and especially during the days and nights of 25 and 26 March, represent a level of violence which was not proportional, nor could ever be justified by the situation. There were tanks, armed personnel carriers and rocket-propelled launchers pre-positioned in certain areas of Abidjan. There were helicopters and units of the navy mobilized on those days. There were thousands of men in uniform and so-called parallel forces manning the mobile units using jeeps, 4x4 vehicles and heavy armoured trucks, who often received instructions from the air and who targeted primarily the community groups described above.

40. Although a "red zone" had been declared, the security forces positioned themselves in and around the periphery of Abidjan, far from that zone, in advance of the march, blocking the entry or exit of residents in especially sensitive areas such as Abobo. They carried out their actions for two days, and probably longer, without allowing international military forces present in Côte d'Ivoire or independent international observers or the press to have access to record the events.

41. As described in some detail below, all available evidence suggests that the initial shooting that started the indiscriminate killings in the morning of 25 March was the result of coordinated action by the security forces. Consistent accounts from various eyewitnesses at different locations on the periphery of Abidjan attest to the launching of tear gas canisters, the use of live ammunition and shooting, either in the air or directly at demonstrators, by security forces in the early hours of 25 March, i.e. between 6.15 and 7.00 a.m.

42. Before the security forces began their action, those who managed to get to the streets saw that no one had yet begun marching or was behaving in a threatening or provocative manner. There were reports of discussions between would-be demonstrators and the security forces, in some cases face to face.

43. According to statistics gathered by the Commission of Inquiry on the basis of official and other documents received, and provided in the annex, at least 120 people were killed, 274 wounded and 20 disappeared. These figures are by no means final. They represent the best available information the Commission was able to gather on this difficult element of the inquiry within the time available. On that premise, the largest number of victims was from Abobo: 63 per cent of the deaths, 35 per cent of the wounded or tortured and 40 per cent of the disappeared. The second largest number of victims was from Anyama, with 10 per cent of the deaths; Koumassi accounted for 13 per cent of the wounded or tortured and 35 per cent of the disappeared were from Anyama. It should also be noted that 80 per cent of the victims were men and that the Commission could not verify any allegation or report of rape.

44. It is equally clear that many of the killings on these two days did not take place in the street but in the dwellings of would-be demonstrators or even innocent civilians targeted by the security forces simply because of their name, origin or community group. It was a well-known fact that police officers or other security officials or parallel forces would harass, try to rob, or search and arrest without warrants people in Abidjan even in the days preceding 25 March. However, these activities had greatly intensified since 23 March and contributed to the explosive environment. Credible accounts received by the Commission indicate that these actions too had been planned and directed by the security forces and later executed in cooperation and collusion with the parallel forces.

45. It is clearly possible that the planned march, which was meant to be an eminently political statement by G7 - whose illegality, owing to the 11 March decree, and ill-timing, owing to the mobilization of the security forces, is not in question, even if the demonstrators had planned to stop before the limits of the "red zone" - might also have been used by the other side as an opportunity not to be missed to teach a hard lesson or settle old scores.

46. Credible reports indicate that within the security services and the leadership of the parallel forces it was known that force would be used; that people would be killed on 25 March. It cannot be excluded that this information managed to reach the other sides of the political divide, including those who wanted to maintain the march in spite of calls from inside and outside the country to postpone it, and that therefore innocent civilians paid the ultimate price for the violent drive to power currently prevailing in Côte d'Ivoire.

47. Based on accounts received from eyewitnesses, and as indicated in public statements by the Director General of the Police, the security forces were already prepositioned in the early morning of 25 March in several key areas of Abidjan, namely Abobo, Adjamé, Yopougon, Anyama, and Kumassi. The defensive structure was composed of three main elements: fixed units made up of heavy equipment, tanks, armoured personnel carriers and rocket-propelled launchers in order to contain demonstrators in the peripheral areas; mobile units manned by special forces of the police, the gendarmerie and the Presidential Guard; and the armed forces as an element of overall defence.

48. According to accounts received from the G7 organizers, the demonstrators who wanted to march were told to regroup in large public areas within their communes on their way towards the Plateau of Abidjan, the "red zone". The rendezvous point was the Place de la République, just outside the zone. Their idea was to hold a peaceful sit-in there. They did not intend to cross or challenge the red zone. In some areas of the periphery, would-be demonstrators were forced to stay at home and could not regroup with other demonstrators in the streets. In other areas, including in Abobo and Adjamé, demonstrators managed to get to the streets and to start the process of regrouping at key points for their intended march towards the Plateau.

49. In some quarters, such as Port Bouet 2 (Yopougon) and Abobo, the shooting started early in the morning, between 6.15 and 8.30, immediately after tear gas canisters were launched by helicopters and by the security forces on the ground. As a result of the tear gas and the shouting and the shooting by the security forces, the crowd became panicked and disorderly. The demonstrators began to run back to their homes or other safe places, in fear of their lives. The use of the helicopters allowed mobile forces to be directed to where the crowd would attempt to regroup so as to reinforce the position of security forces in place on the ground.

50. In one incident, in Yopougon, at 6.15 a.m., as demonstrators were trying to gather in the street, a jeep with English-speaking uniformed men, without insignias, threatened to kill them. A few minutes later, helicopters began to fly so low over the area that demonstrators could see the white pilots being assisted by black men. Tear gas canisters were dropped from the helicopters onto the crowd. As the tear gas spread through the streets, the crowd began to flee. The men without insignias, possibly members of the parallel forces, blocked the road with the jeep and made it impossible for the demonstrators to get away. Meanwhile, police and officers of the gendarmerie arrived at the scene and the shooting started. It was not clear to the eyewitnesses who actually shot at them: the parallel forces, the police or the gendarmerie. However, several demonstrators were hit and killed at about 7 a.m. One wounded man was taken by the driver of a passing car who attempted to take him to a nearby hospital. On the way, he was stopped and arrested by the police, who threw the wounded men by the side of the road.

51. In the area called Adjamé, not too far from Abobo, towards the Plateau, at about 10 a.m. a group of demonstrators were dispersed by tear gas canisters launched from helicopters. The gas created confusion among the demonstrators, who started to run in different directions or attempted to go back home or take cover in nearby houses. One member of the parallel forces, wearing a white T-shirt and accompanied by three police officers, is reported to have shot at the fleeing demonstrators. Two of them were wounded, but managed to survive thanks to assistance provided by the Red Cross.

52. People were thus killed or wounded on the street, in courtyards as well as inside their own homes. Bodies were collected by vehicles of the security forces or funeral cars and brought either to public or private morgues in the Abidjan area. According to the Commission's findings, there are currently still 81 bodies in mortuaries. At the time this report was written, the State forensic pathologist had carried out some 50 autopsies at the mortuary at the University Hospital of Treichville. He said that pathologists were asked to do the remaining autopsies at the mortuary of Anyama. However, there were only four forensic pathologists available so finishing the job would require more time, especially as they did not have all the necessary equipment.

53. Other bodies might have been transported and buried elsewhere, in what are likely to be mass graves. There are credible accounts by eyewitnesses and other sources received by the Commission that allege the existence of at least two mass graves, at N'Dotre and Akouedo. These claims, however, will have to be independently verified, as the Commission was not in a position to do so within the time available, especially given the likely number of deaths (138), and the disappearances, conservatively estimated to be at least 20. In addition to the 81 bodies in mortuaries, there are some 77 bodies which at present cannot be accounted for. It should also be noted that the Public Prosecutor had ordered that the bodies of those killed on 25 and 26 March not be returned to their families until the autopsies and the forensic reports were completed. The responsibility for the storage and custody of the dead bodies at the present time rests with the private and public mortuaries.

54. Wounded people were left to themselves and to the care of their relatives, friends, or others who tried to bring them to hospital or provide urgent medical attention or first aid. There have been reports that Red Cross personnel and cars were seen at the scene of the events and in some cases were involved in assisting the wounded.

Use of helicopters

55. According to the Chief of Staff of the Armed Forces, helicopters were used on 25 and 26 March in order to take aerial photographs or to assist in the urgent evacuation of personnel. According to credible accounts from various eyewitnesses, helicopters were used both for observation and for aerial support to the mobile units of the security forces on the ground by launching tear gas canisters or directing reinforcements to specific locations. In one instance, helicopters were reported as flying very low at around 10 a.m. in the area of Port Bouet, where there were no demonstrators at that time. Many witnesses reported that, after a first pass above a courtyard, a helicopter came back and shot at people and dropped three explosive devices, as a result of which two people were killed, including a 12-year-old child, and more than 15 wounded.

Brutal killing of two policemen in Abobo

56. The brutal killing of two policemen took place at around 9.30 – 10.00 a.m. on 25 March in the area called PK 18, in Abobo. As indicated above, this was an area particularly targeted by the security forces on 25 March and where the killing of civilians had actually started earlier in the day. Here, demonstrators had managed to regroup in considerable numbers, according to credible accounts as many as 300 or more. Some of the demonstrators were coming from the

direction of Anyama, north of Abobo, and were still marching in an orderly way towards a bridge, called "derrière pont", controlled by the security forces.

57. Another group of demonstrators coming towards the "derrière pont" started to burn tyres and to advance towards the police forces in a threatening manner, throwing rocks, stones and other objects and shouting angrily about harassment and extortion to which they were frequently subjected by the police. The police officers stationed at the bridge felt overwhelmed by the confluence of the two groups of demonstrators. They shot twice in the air and then tried to flee.

58. The police officers took refuge in several small houses nearby, where they were followed by the angry crowd. Three police officers entered the internal courtyard of a group of small houses and entered one of the dwellings. The crowd broke down the door of the house and, according to eyewitnesses, continued to chase the policemen. One policeman was taken outside the house and severely beaten, including with machetes. He was left on the ground for dead. A second policeman was saved by someone who took his weapon, poured blood on his body and told the other demonstrators that he was already dead. A third policeman was beaten and tortured until he lost consciousness. As the crowd left the house, which was also vandalized, another police unit came to the rescue of the policemen. They left with two of the wounded policemen and left behind special security officers (*boucliers*) in the courtyard. Some demonstrators, seeing the special security officers arrive, entered the courtyard again and brutally killed the remaining policeman. They threatened to burn his body as well as the whole house. The angry crowd eventually fled the scene when a police unit approached. The Commission also received credible reports regarding the killing of another policeman by the crowd in the same area.

Chain of command

59. The mobilizing of the national armed forces and the heavy security operation mounted to handle the events of 25 and 26 March 2004 could only create confusion regarding coordination among the various units involved which, according to reliable sources, do not follow clear and well-established guiding principles and modalities. This lack of clarity in the chain of command and in the lines of communication could only facilitate abuses and excessive use of force, notably resulting from the inability of the commanders to maintain effective control over their subordinates. Therefore, in examining the responsibility for the human rights violations perpetrated during the events of 25 and 26 March, one would also have to bear in mind the repercussions of the presidential decree of 22 March and the instructions given to the chiefs of the national armed forces during the meeting on 24 March.

60. It is difficult for the Commission to shed light on how commands or orders were actually carried out within the regular forces or between them and the parallel forces. According to testimonies, thousands of members of the security forces may have been in action on those days in Abidjan. It should be noted, however, that while officially the army was supposed to remain as the" third layer", with a predominantly defensive role, following the police and the gendarmerie, helicopters, as well as other units such as the navy, were widely reported to have been deployed. Furthermore, it should be noted that in addition to the official chain of command, credible and repeated accounts were received by the Commission indicating that

there was a separate command and control structure for the parallel forces acting in coordination and collusion with the security forces.

61. It should be noted, however that on 27 March, President Gbagbo spoke out against the organizers of the march and blamed them for the deaths and injuries that resulted from their "pointless actions". He expressed his appreciation to the security and armed forces for their loyalty and action.

Raids, and search and arrest without warrants

The legal basis

62. The Commission noted that there were a massive number of arrests without any established legal ground. The Code of Penal Procedure provides that law enforcement officials can arrest and detain an individual in order to verify his identity in the context of inquiries following a crime, or in *flagrant délit*.

63. Such arrests and detentions should comply strictly with rules and procedures that were absolutely not respected in the case of the events of 25 and 26 March 2004, as well as on the following days. Indeed, according to article 59 of the Code, such arrests and detentions are strictly forbidden in private houses between 9 p.m. and 4 a.m. Nonetheless, searches can exceptionally be authorized by the judicial or administrative authorities if there is evidence that a crime has been committed. Except for the cases where an individual is caught committing a crime, law enforcement officials should present a warrant in order to arrest or detain a person.

64. According to information and testimonies received by the Commission, arrests and detentions that took place on 25 and 26 March 2004 were illegal or arbitrary as no legal authorization was provided to the individuals concerned. During these arrests, the victims were often badly ill-treated, their belongings stolen, their houses vandalized and, in some instances, they were summarily executed. Furthermore, consistent reports indicate that people were being detained beyond the legal time limit. In at least one instance, police officers did not provide any assistance to a person whom they had shot earlier and left bleeding to death in a police station (see para. 66 below). The Commission is concerned that such illegal practices have become widespread and systematic, in particular in marginalized neighbourhoods, and that official statements have indicated that they were justified.

Some concrete examples

65. These phenomena were typical occurrences in Abidjan in the months prior to 25 March 2004. However, there was an increase in their number as of 24 March. This is an important aspect because it greatly increased the level of frustration and hate on the part of the targeted population, including supporters or perceived supporters of opposition parties and community groups, with respect to the police and security forces. Normally, they take place in the middle of the night, often with the participation of security officers and parallel forces, or are carried out by the parallel forces themselves. These raids are characterized by intimidation, harassment, extortion, ill-treatment and torture, robbery, illegal detention or arrest, and extrajudicial or summary executions. As indicated above, there are credible and repeated

reports indicating that these raids increased significantly on the night of 23 March and even more during the nights that followed.

66. In one incident, in Abobo, PK 18, six young men living in the same quarters were forcibly taken from their house at 11 p.m. on 25 March by police and masked members of special units or the so-called parallel forces. The police said they were looking for "Enza", and asked the men if they had participated in the march. The young men did not know who Enza was and did not want to say whether they had marched. The armed officers replied that "they were all the same anyhow", and started to vandalize the house. One of the men was ordered to kneel down, just outside the house, in the courtyard, where he was shot repeatedly. A second man, who tried to flee, was shot in the back and was taken to the police station, where he was left bleeding till he died at about 5 a.m. on 26 March. The four other young men were ill-treated and tortured at the central police station in the Plateau. They are still in the MACA prison in Abidjan. The Director General of the national police indicated in a written document made available to the Commission that those men were responsible for killing the two policemen. Later, however, when brought before a public prosecutor, they were merely accused of having participated in the march. Members of the Commission managed to meet these four prisoners and were told in no uncertain terms that they had stayed at home the whole day on 25 March and had not even stepped out of their house.

67. The Commission also considers that raids, searches and arrests without warrants create an environment conducive to abuses by the so-called parallel forces and militias operating on their own or alongside the security forces.

Parallel forces

68. The parallel forces are armed militia. They include: Young Patriots (Jeunes patriotes), Groupement patriotique pour la paix now called Force de liberation nationale, Federation d'etudiants et stagiaires de Côte d'Ivoire (FESCI), Forces armées territoriales and/or Forces anti-terroristes (FAT), and Union des patriotes pour la libération total de la Côte d'Ivoire (UPLTCI). While not formally within the structure of the armed forces or security services, these groups normally support the work of the police and the gendarmerie and, at times, are used as alternatives to them. They may, however, maintain some degree of autonomy from any established structure and some of these groups may also be capable of a minimum of political leadership.

69. They are financed and armed mostly by the security forces, which provide them with general direction or direct orders. According to many accounts and testimonies, this backing for the parallel forces comes from within the presidential palace. They normally wear military trousers and a white or coloured T-shirt. They have training bases in and around the Yopougon neighbourhood, including those named Maison Carré and Azito. The members of these groups are often young, unemployed citizens of Côte d'Ivoire. As noted above, these groups were allowed to march in December 2003 during a previous ban on demonstrations.

70. On 1 April 2004, the Minister of Internal Security stated the following: "Several credible testimonies indicate that individuals wearing military clothes, armed with automatic pistols and/or Kalashnikov rifles and circulating by night in 4x4 runners, Mercedes or so-called *bâchés*

exert terror in certain neighbourhoods, committing all type of abuses against the population, stealing their belongings and, in some instances, kidnapping individuals after breaking into their homes. Information received indicates that the reality of such a phenomenon can not be questioned".

71. A number of individuals kidnapped in such conditions were later found in official detention centres. It is also surprising that no element belonging to the so-called parallel forces could be arrested and prosecuted for these crimes. Such trends illustrate a close link between the so-called parallel forces and the security services.

III. CONCLUSIONS

72. What happened on 25 and 26 March was the indiscriminate killing of innocent civilians and the committing of massive human rights violations. The march became a pretext for what turned out to be a carefully planned and executed operation by the security forces, i.e. the police, the gendarmerie, the army, as well as special units and the so-called parallel forces, under the direction and responsibility of the highest authorities of the State. This conclusion is the result of accounts from eyewitnesses and survivors, as well as corroborating evidence collected in Abidjan from 15 to 28 April 2004.

73. The events in question have to be seen in the broader context of a fragile political system in Côte d'Ivoire and a struggle for power, which is often violent. They are but one example of the violent political discourse currently prevailing in Côte d'Ivoire. An immediate end to the cycle of violence and to impunity is indispensable in order to move the country out of the present crisis and towards the establishment of the rule of law and respect for human rights, which are crucial for peace and successful and sustainable development efforts over the long term.

74. The political responsibility of those who planned the march in spite of the ban and the tense climate created by the drawing of a "red zone" and the mobilization and use of the army must also be emphasized. This political responsibility, however, cannot be compared to the level of responsibility of the security forces for their actions.

75. While the march was presented to the public, and possibly perceived by some, as a major challenge to the nation and its President, all available evidence suggest that there was no significant threat to the security forces posed by the demonstrators and that the repression and killings that took place in the morning of 25 March, and especially during the days and nights of 25 and 26 March, represent a level of violence which was not proportional to the situation and which targeted primarily community groups of supporters, or perceived supporters, of opposition parties working in Côte d'Ivoire.

76. While a "red zone" had been declared, within which unauthorized personnel would be considered as enemy combatants and shot on sight, the security forces had positioned themselves in and around the areas where the events occurred, i.e. the periphery of Abidjan, in advance of the march, allegedly also blocking the entry or exit of residents, and carried out their action there for two days, and probably longer, outside the reach of international military forces present in Côte d'Ivoire or of independent international observers.

77. All available evidence suggest that the initial shootings in the morning of 25 March that provided the spark for the explosion was the result of coordinated action by the security forces which resulted in the death of more than 100 civilians. Many of the killings took place not in the street, but in the houses of would-be demonstrators or even innocent civilians targeted by the security forces. There are also credible reports that more than 20 people could have disappeared whose families are too afraid to report their disappearance to the relevant authorities.

78. The killing of two policemen, which exacerbated the tensions in the street and provided a semblance of justification for the strong reaction by the security forces, actually took place two or three hours after the security forces had already started shooting into the crowds. Thus, most of the human rights violations that occurred on these two days can be characterized as a massacre in which summary executions, torture, disappearances and arbitrary detentions were repeatedly committed by units of the security forces and the parallel forces acting in coordination or in collusion with them.

79. Available evidence shows that the large majority of the bodies currently still in morgues pending autopsy present gunshot wounds. There is sufficient evidence to suggest that there could be at least two mass graves, details of their locations having been reported to the Commission. The size of these mass graves could not be independently verified and should be further investigated. Equally, it was not possible for the Commission to verify allegations made by key witnesses that bodies would have been secretly removed from morgues in order to reduce the number of official deaths connected with the march. This could be possible, as there is no judicial chain of custody for the bodies.

80. While on the eve of the march there were publicly declared orders to the security forces involved in the operation not to use weapons, except in self-defence, these orders were clearly not followed down the chain of command. These orders also did not affect the violent behaviour of the parallel forces. The use of foreign experts in military and security operations, especially within the parallel forces, which allegedly are also trained in anti-terrorist activities, has been reported to the Commission and cannot be excluded.

81. In addition, the Commission believes that other massive human rights violations, which have occurred since 19 September 2002, also need to be investigated so that those responsible can be prosecuted. This would contribute to bringing impunity to an end.

82. More generally, it is important to emphasize that current problems in Côte d'Ivoire cannot be addressed or solved through coups d'état or violence nor through continuing impunity for massive human rights violations, but through political dialogue, stability, and economic and social development. Equally relevant is the question of reducing the uneven distribution of wealth, the systematic exclusion of community groups and the low level of literacy which, compounded by unemployment, especially among the youth, create a breeding ground for intolerance and extremism. Thus, the events in question can be better understood by bearing in mind the realities of Côte d'Ivoire since the early 1990s and issues relevant to good governance and the rule of law such as elections, political parties, national identity and land tenure.

83. The subregional dimension and the complex web of ethnic links that bind people across national borders are also key to understanding the phenomena that occur in Côte d'Ivoire as the international community, especially the United Nations, through ONUCI, is increasing its efforts to ensure conditions more favourable to the success of peace efforts which are crucial for the respect of human rights, the rule of law and economic and social development in the country.

IV. RECOMMENDATIONS

84. Criminal investigations before an independent court should be carried out with a view to prosecuting those responsible for the indiscriminate killings on 25 and 26 March, i.e. the commanders of the special units involved within the security forces of Côte d'Ivoire, as well as the so-called parallel forces.

85. Any other persons who may have been involved within these forces in the direction and planning of the 25 and 26 March indiscriminate killings should also be prosecuted and/or disciplined. This should be done in accordance with other evidence or findings that will emerge through the work of the International Commission of Inquiry foreseen in the Linas-Marcoussis Agreement.

86. The International Commission of Inquiry needs to be established promptly and properly funded and resourced, and should be tasked with investigating all allegations of grave violations of human rights committed in Côte d'Ivoire since 19 September 2002.

87. Thus, individual accountability for the massive human rights violations committed on those days in March by the highest authorities of the State is essential to restoring faith in the institutions of the State itself and must be a priority for the international community, especially within the context of the United Nations Security Council.

88. In the light of the events of 25 and 26 March, the international community may wish to consider ways in which ONUCI could be further strengthened, in order for it to be in a better position to carry out the mandate entrusted to it by Security Council resolution 1528 (2004) of 27 February 2004, especially its paragraph 6.

89. In particular, especially after the public release of this report, it is necessary for the international community to consider expanding the mandate of ONUCI to ensure the protection of witnesses to the indiscriminate killings of 25 March, especially those individuals and groups that provided confidentially valuable information to the Commission for the elaboration of the present report and the protection of relatives of victims of the indiscriminate killings, the families of the disappeared, as well as the survivors,

90. More generally, the international community should give priority attention to the following key areas:

(a) Reform and training of the police and other security forces in international human rights norms as well as in minimum standard rules for the use of force and firearms, including with the support of international police personnel. The adoption of

new standing orders, in line with OHCHR manuals for law enforcement officials, will be a benchmark for that reform;

(b) Reform and strengthening of the judiciary, also through training, so as to ensure due process and the fairness and independence of this professional group, in line with the OHCHR manual for judges, lawyers and prosecutors;

(c) The establishment of a mixed human rights court, with the participation of international judges, mandated to prosecute all past massive human rights violations including those committed prior to 25 March 2004, could be envisaged;

(d) Establishment of a Truth and Reconciliation Commission in Côte d'Ivoire, with the support of the United Nations and keeping in mind the lessons learned and best practices that have emerged in this area in the past few years;

(e) Restructuring of the armed forces with the participation of all ethnic groups and their reform, in line with applicable international human rights and humanitarian law;

(f) Dismantling and disarming of all armed groups, including the so-called parallel forces, with due consideration to the possible integration of members of these forces into regular security structures of the State predicated on their retraining and their full adherence to applicable international human rights and international humanitarian law;

(g) Quick-impact economic programmes aimed at reducing unemployment and extreme poverty and at jump-starting the economic potential of the country;

(h) Special development projects aimed directly at the most vulnerable groups, such as women, children, youth and ethnic minority groups, as part of a strategy aimed at reducing the root causes of violence and conflict in the country;

(i) Urgent establishment of a United Nations radio station and enhancement of the United Nations information, media, education and training activities in Côte d'Ivoire, especially on human rights-related issues, so as to encourage a climate of mutual respect and tolerance among all community groups in the country;

(j) Ensuring more effective protection of the basic human rights and fundamental freedoms of all individuals in Abidjan, as part of the efforts of the international community to create an environment more conducive to the holding of free and fair elections in 2005;

(k) The need for a tracing and family reunification effort for survivors and the disappeared, in cooperation with the International Committee of the Red Cross.

91. The international community should also assist financially the Government of National Reconciliation of Côte d'Ivoire so as to ensure adequate compensation for the families of the victims of the indiscriminate killings and those whose property was destroyed or damaged during the events in question.

92. In this context, priority should be given to the provision to the Government of National Reconciliation of advisory services and technical cooperation programmes aimed at creating and strengthening national human rights protection systems, in particular the development of an effective and independent national human rights institution in Côte d'Ivoire in accordance with the Paris Principles, and the creation of a culture of human rights.

93. The Government of Côte d'Ivoire should also be urged to put an immediate end to arrests and searches carried out during the night.

94. Since the existence of militias and so-called parallel forces has been ascertained, the President of the Republic and the Government of National Reconciliation have the obligation to take all necessary steps to put an end to their activities.

95. In view of the consistent pattern of human rights violations in Côte d'Ivoire over the past years, the international community may also wish to consider the need for the establishment of an independent human rights mechanism of the United Nations Commission on Human Rights (a country-based special rapporteur or independent expert), that could be tasked with reporting, also to the General Assembly, on progress made in the effective implementation of international human rights norms, their translation into practices at the national level, as well as in ending impunity and ensuring the rule of law in Côte d'Ivoire.

96. Côte d'Ivoire is at a crossroads: in order for peace to prevail here, as well as elsewhere in the subregion, it is absolutely necessary to establish the principle that violence can no longer yield political advantages and must never be rewarded. Respect for the rights of the other – including political opponents - has to become the key test for all those who aspire to lead the country towards stability, unity and prosperity. It is through their example and their commitment, at the highest level of the State, that the occurrence of another 25 and 26 March in the future may be prevented.